

(2021) 02 PAT CK 0119

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5821 Of 2020

Devanarayan Ray @ Devnath Ray

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 08-02-2021

Acts Referred:

Citation : (2021) 02 PAT CK 0119

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : N.K. Agarwal, Diwakar Upadhyaya, Arvind Ujjwal

Final Decision : Allowed

Judgement

The present writ petition has been filed challenging the order dated 08.02.2020 passed by the S.D.O. Sadar, Chhapra, whereby and whereunder he has cancelled the P.D.S. license of the shop of the petitioner bearing P.D.S. License No. 13 of 2016.

The learned senior counsel for the petitioner Shri N.K. Agarwal has raised a short issue for consideration to the effect that while issuing the show

cause notice dated 26.12.2019, the enquiry report has not been enclosed, hence admittedly the petitioner has been precluded from submitting his

wholesome defence resulting in violation of the principles of natural justice. Reference in this connection has been made to a judgment rendered in the

case of Brahmdeo Rai vs. The State of Bihar & others reported in 2013(2) PLJR 706. At this juncture, the learned senior counsel for the petitioner

has also submitted that the impugned order dated 08.02.2020 is also bad inasmuch as the proposed punishment has not been mentioned in the show

cause notice dated 26.12.2019, hence the principles of natural justice has not

been followed.

The learned counsel appearing for the State does not dispute the position as is existing in law.

Having regard to the facts and circumstances of the case and considering the submissions made by the learned senior counsel for the petitioner as

also taking into account the law laid down by this Court in the case of Brahmdeo Rai (supra), this Court finds that since admittedly a copy of the

enquiry report has not been supplied to the petitioner herein, the petitioner has been precluded from taking a wholesome defence, resulting in violation

of the principles of natural justice, thus the impugned order dated 08.02.2020 passed by the S.D.O. Sadar, Chhapra is quashed, however, with liberty

to him to pass appropriate orders after issuing fresh show cause notice and supplying a copy of the enquiry report, in accordance with law. The writ

petition stands allowed.